

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Application for Waiver

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Docket No. RM2021-5

**COMMENTS OF
THE ASSOCIATION FOR POSTAL COMMERCE
(April 6, 2021)**

Pursuant to 39 C.F.R. § 3030.286(d) and Order No. 5854, the Association for Postal Commerce ("PostCom") submits these comments on the Postal Service's request for waiver of 39 C.F.R. § 3030.284 in advance of its upcoming market-dominant price change. The Postal Service has not provided the information required by Rule 3030.286, and its request is facially deficient. As this filing represents the first test of the Commission's new workshare rules, the Commission should affirm its position in Order No. 5763 that the waiver process should be used only "in exceptional circumstances"¹ and affirm its intent "to ensure the Postal Service's strict adherence to the waiver regulation"² by dismissing the waiver request with leave to refile.

I. THE POSTAL SERVICE HAS NOT COMPLIED WITH RULE 3030.286

The Postal Service bases its waiver request on its "belief that increasing the workshare discount for 5-Digit presort First-Class Mail by 0.5 cents in a single year could decrease the efficiency of its processing operations, as described in subsection (c)(5) of Rule 286."³ As such, the application for waiver must provide "a description of the operational strategy at issue"⁴; a "[q]uantitative analysis or, if not available, qualitative analysis indicating how the workshare

¹ Order No. 5763 at 213.

² *Id.* at 214.

³ Statement in Support of Waiver Application, Sharon Owens, Vice President, Pricing, U.S. Postal Service ("Owens Statement") at 1.

⁴ 39 C.F.R. § 3030.286(c)(5)(i).

discount at issue is related to that operational strategy”⁵; and an explanation of “[h]ow setting the workshare discount in compliance with” the pass through standards “would impede that operational strategy.”⁶ The waiver application contains none of this information.

The waiver application does not even reference an “operational strategy,” much less contain an analysis—quantitative or otherwise—as to how the First-Class Mail Letters 5-Digit Automation discount is related to that strategy. The Postal Service simply laments that it would have to increase the discount by 17%,⁷ an outcome clearly contemplated by the Commission’s rules.⁸

It further cites the possibility that a compliant discount “could lead to unpredictable changes among the relative proportions of mail volumes sorted to 5-Digit, Auto AADC, and Mixed AADC.”⁹ But it provides no information about the existing proportions, how those proportions relate to its operational strategy, or how shifts in those proportions would impact its operational strategy. In the absence of contrary evidence, one would assume that a more efficient discount would cause volumes to shift in a way that leads to more efficient processing.

In this regard, it is important to note that the Postal Service has offered little resistance to the Commission’s directives to reduce workshare discounts that pass through more than 100% of avoided costs. As PostCom has repeatedly noted in comments on the Annual Compliance Report, workshare discounts passing through less than 100% of avoided costs are just as inefficient as those passing through more than 100% of avoided costs, yet the historic focus has been almost entirely on decreasing discounts exceeding 100% of avoided costs.¹⁰ The new rules

⁵ 39 C.F.R. § 3030.286(c)(5)(ii).

⁶ 39 C.F.R. § 3030.286(c)(5)(iii).

⁷ Owens Statement at 2.

⁸ See 39 C.F.R. § 3030.284(c) (authorizing workshare discounts set below avoided costs when the proposed discount is a minimum of 20 percent greater than the existing discount).

⁹ Owens Statement at 2.

¹⁰ See, e.g., Comments of the Association for Postal Commerce, Docket ACR2019 at 4-6.

make progress in addressing this disparity. The Commission should take this opportunity to demonstrate that it is committed to a new path.

Ultimately, the Commission cannot find that a “preponderance of the evidence”¹¹ supports the requested waiver because the Postal Service has not submitted any evidence at all. The Commission should dismiss the waiver request for failure to comply Rule 3030.286. Additionally, because this request is facially deficient, the 60-day period specified in § 3030.286(a) should be calculated from the date of any re-submitted application for waiver that complies with Rule 3030.286.

Respectfully Submitted,

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¹¹ 39 C.F.R. § 3030.286(b).